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FILED
Superior Court of California
County of Los Angeles
02/27/2024

David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

Attorneys for Plaintiff and the Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DAVID M. HOPTMAN, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

vs.

LA ARENA COMPANY LLC; and DOES
1 to 50, inclusive,

Defendants.

Case No.: 23STCV16855

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT**

1. Penalties Pursuant to Labor Code § 2699, *et seq.* for violations of Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, and 1199

JURY TRIAL DEMANDED

Plaintiff DAVID M. HOPTMAN (“Plaintiff”), an individual, on behalf of himself and the people of the State of California and as an “aggrieved employee” under the Labor Code Private Attorneys General Act of 2004, § 2699, *et seq.* (“PAGA”) complains against Defendant LA ARENA COMPANY LLC (“Defendant”), a corporation, and DOES 1 to 50 (collectively “Defendant”), as follows:

I

INTRODUCTION

1. This is a Representative Action, pursuant to Labor Code § 2699, *et seq.*, on behalf of the following individuals: All persons who are employed or have been employed by

1 LA ARENA COMPANY LLC in the State of California since one (1) year prior to the date of
2 Plaintiff's notice letter to the Labor and Workforce Development Agency ("LWDA") and
3 continuing to the present. ("Aggrieved Employees")

4 2. For at least one (1) year prior to the date of the letter sent to the LWDA and
5 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
6 Defendant has had a consistent policy of failing to pay wages and/or overtime to all hourly
7 employees for all work perform at the proper rate of compensation. Defendant requires Plaintiff
8 and the Aggrieved Employees to work "off the clock" without compensation. Defendant
9 followed a uniform policy and practice of "auto-deducting" thirty (30) minutes of time from
10 Plaintiff and the Aggrieved Employees each day that they work for a meal period. However,
11 Defendant failed to record the actual clock in and actual clock out time for the meal period.
12 Therefore, this "auto-deduct" policy and practice resulted in Defendant failing to pay Plaintiff
13 and the Aggrieved Employees all wages at the appropriate rate for all hours worked because it
14 automatically deducts thirty (30) minutes of time from the employee's total hours worked for
15 the day regardless of whether a lawful meal period was actually provided under California law.
16 This resulted in underpayment of minimum wages and/or overtime. As a result of Defendant's
17 unlawful policies, Plaintiff and the Aggrieved Employees were paid at a regular rate less than
18 the rate required under California law.

19 3. For at least one (1) year prior to the date of the letter sent to the LWDA and
20 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
21 Defendant has had a consistent policy of failing to keep accurate time records. Wage Order 4-
22 2001 Section 7(A)(3) requires an employer to keep records of when the employee begins and
23 ends each work period and meal periods. Labor Code § 1199(c) requires employers to comply
24 with any order of the commission. As such, Defendant has violated this statute and the Wage
25 Order by failing to keep accurate records.

26 4. For at least one (1) year prior to the date of the letter sent to the LWDA and
27 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
28 Defendant has had a consistent policy of failing to inform employees of their right to take meal

1 periods and requiring employees within the State of California, including Plaintiff, to work at
2 least five (5) hours without a meal period and failing to pay such employees one (1) hour of pay
3 at the employees' regular rate of compensation for each workday that the meal period is short,
4 not provided, or provided after five (5) hours, as required by California state wage and hour
5 laws. Plaintiff and the Aggrieved Employees were required to take their meal periods in
6 specific designated areas as a condition of employment. This required Plaintiff and the
7 Aggrieved Employees to walk from their assigned location to the specific designated areas for
8 their meal period. Further, Plaintiff and the Aggrieved Employees were required to be back at
9 their assigned location within thirty (30) minutes of the start of their meal period. In addition,
10 Plaintiff and the Aggrieved Employees were only provided five (5) minutes of travel time for
11 their meal period. However, five (5) minutes of travel time was not sufficient to walk to and
12 from their assigned location to the specific designated areas for their meal periods. This
13 resulted in Plaintiff and the Aggrieved Employees receiving short meal periods. Further,
14 Plaintiff and the Aggrieved Employees were not relieved of all duty during this travel time, as
15 they were not allowed to use their personal cellphones. Plaintiff and the Aggrieved Employees
16 were instructed that personal cellphones could only be used in specific designated areas.
17 Therefore, Plaintiff and the Aggrieved Employees did not receive a full thirty (30) minute
18 uninterrupted meal period pursuant to the Labor Code and Wage Orders. When employees
19 received short meal periods or were required to work through meal periods, Defendant failed to
20 pay such employees one hour of pay at their regular rate of compensation.

21 5. For at least one (1) year prior to the date of the letter sent to the LWDA and
22 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
23 Defendant has had a consistent policy of failing to inform employees of their right to take rest
24 periods and of failing to provide employees within the State of California, including Plaintiff,
25 rest periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and
26 failing to pay such employees one (1) hour of pay at the employees regular rate of compensation
27 for each workday that the rest period was short, not provided or late, as required by California
28 state wage and hour laws. Plaintiff and the Aggrieved Employees were required to take their

1 rest periods in specific designated areas as a condition of employment. This required Plaintiff
2 and the Aggrieved Employees to walk from their assigned location to the specific designated
3 areas for their rest period. In addition, Plaintiff and the Aggrieved Employees were required to
4 be back at their assigned location within fifteen (15) minutes of the start of their rest period. As
5 such, Plaintiff and the Aggrieved Employees received a ten (10) minute rest period and five (5)
6 minutes of travel time. However, five (5) minutes of travel time was not sufficient to walk to
7 and from their assigned location to the specific designated areas for their rest periods. This
8 resulted in Plaintiff and the Aggrieved Employees receiving short rest periods. As a result,
9 Plaintiff and the aggrieved employees did not receive a full ten (10) minute rest period as
10 required by the Labor Code and Wage Orders. Further, Plaintiff and the Aggrieved Employees
11 were not compensated with one (1) hour of wages at their regular rate of compensation for each
12 short or missed rest period as required by Labor Code § 226.7.

13 6. For at least one (1) year prior to the date of the letter sent to the LWDA and
14 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
15 Defendant has failed to comply with Labor Code § 226(a) by failing to include necessary and
16 required information on wage statements provided to Plaintiff and the Aggrieved Employees.
17 Defendant failed to include the total hours worked, all applicable hourly rates in effect during
18 the pay period, and the corresponding number of hours worked at each hourly rate by the
19 employee.

20 7. For at least one (1) year prior to the date of the letter sent to the LWDA and
21 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
22 Defendant has failed to pay all wages due at the time of termination or resignation to Plaintiff
23 and the Aggrieved Employees.

24 8. Plaintiff, on behalf of himself and all Aggrieved Employees, brings this
25 representative action pursuant to Labor Code § 2699, *et seq.* seeking penalties for Defendant's
26 violation of California Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, and 1199.

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II

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

10. This Court has personal jurisdiction over Defendant because Defendant has caused injuries in the County of Los Angeles and the State of California through their acts, and by their violation of the California Labor Code and California state common law.

11. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. Defendant operates within California and does business within the County of Los Angeles. The unlawful acts alleged herein have a direct effect on Plaintiff and all Aggrieved Employees within the State of California and the County of Los Angeles.

12. This case should be classified as complex according to Rule 3.400 of the California Rules of Court, and assigned to a complex litigation judge and department, as it will involve substantial documentary evidence, a large number of witnesses, and is likely to involve extensive motion practice raising difficult or novel issues that will be time-consuming to resolve and would require substantial post judgment judicial supervision.

III

PARTIES

A. PLAINTIFF

13. Plaintiff DAVID M. HOPTMAN is a resident of California.

14. Plaintiff and the Aggrieved Employees were regularly required to:

- a. Work without being paid for all hours worked at the proper rate;
- b. Work without being supplied accurate time records;
- c. Work without being provided their meal periods;

1 d. Work without being provided their rest periods; and

2 e. Work without Defendant maintaining accurate time records showing
3 when the employee begins and ends each work period, meal periods, and total daily hours
4 worked and work without being provided an accurate itemized wage statement that reflects all
5 deductions from payment of wages and accurately report total hours worked, including when the
6 employee begins and ends each work period, meal periods, and total daily hours worked, and
7 the applicable rates of pay by Plaintiff and Aggrieved Employees

8 15. Defendant willfully failed to compensate Plaintiff and all Aggrieved Employees
9 for wages at the termination of their employment with Defendant.

10 16. Plaintiff, on behalf of himself and the Aggrieved Employees, brings this
11 representative action pursuant to Labor Code § 2699, *et seq.* seeking penalties for Defendant's
12 violation of California Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, and 1199.

13 **B. DEFENDANTS**

14 17. Defendant LA ARENA COMPANY LLC is believed to be a California limited
15 liability company operating within the State of California. Defendant's corporate address is
16 believed to be 1111 S Figueroa Street, Suite 3100, Los Angeles, CA 90015. Upon information
17 and belief, Defendant employed Plaintiff and similarly situated persons as employees within
18 California. Defendant has done and does business throughout the State of California.

19 18. The true names and capacities, whether individual, corporate, associate, or
20 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
21 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
22 § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
23 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred
24 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names
25 and capacities of the Defendants designated hereinafter as DOES when such identities become
26 known.

27 19. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
28 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a

1 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
2 Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all
3 respects acted as the employer and/or joint employer of Plaintiff and the Aggrieved Employees.

4 IV

5 **FACTUAL BACKGROUND**

6 20. Plaintiff and the Aggrieved Employees are, and at all times pertinent hereto, have
7 been classified as employees by Defendant.

8 21. Upon information and belief, Plaintiff and the Aggrieved Employees are covered
9 by California Industrial Welfare Commission Occupational Wage Order No. 4-2001 (Title 8
10 Cal. Code of Regs. § 11040).

11 22. On a regular and consistent basis, Plaintiff and the Aggrieved Employees were
12 not paid at the proper rate of compensation. Defendant requires Plaintiff and the Aggrieved
13 Employees to work “off the clock” without compensation. Defendant followed a uniform
14 policy and practice of “auto-deducting” thirty (30) minutes of time from Plaintiff and the
15 Aggrieved Employees each day that they work for a meal period. However, Defendant failed to
16 record the actual clock in and actual clock out time for the meal period. Therefore, this “auto-
17 deduct” policy and practice resulted in Defendant failing to pay Plaintiff and the Aggrieved
18 Employees all wages at the appropriate rate for all hours worked because it automatically
19 deducts thirty (30) minutes of time from the employee’s total hours worked for the day
20 regardless of whether a lawful meal period was actually provided under California law. This
21 resulted in underpayment of minimum wages and/or overtime. As a result of Defendant’s
22 unlawful policies, Plaintiff and the Aggrieved Employees were paid at a regular rate less than
23 the rate required under California law.

24 23. On a regular and consistent basis Defendant has had a consistent policy of failing
25 to keep accurate time records. IWC Wage Order 4-2001 and Labor Code specifically require
26 that Defendant maintains time records showing when the employee begins and ends each work
27 period. *See* IWC Wage Order 4-2001(7). Further, meal periods, split shift intervals and total
28 daily hours worked shall also be recorded. *Id.* Here, Defendant’s own policies and procedures

1 failed to record the start and stop of each meal period as required by the Wage Order and Labor
2 Code. As a result, it is impossible to determine by Defendant's records if Plaintiff and the
3 Aggrieved Employees received a proper and timely thirty (30) minute uninterrupted meal
4 period. Further, this violates the Wage Order and Labor Code as Defendant failed to record
5 when the employee begins and ends each works period. This is to the detriment of Plaintiff and
6 the Aggrieved Employees.

7 24. Plaintiff and the Aggrieved Employees have been forced by Defendant to work
8 over five (5) hours in one day without being provided a thirty (30) minute uninterrupted meal
9 break and not being compensated one (1) hour of pay at the regular rate of compensation for
10 each workday that a meal period was short, not provided, or provided after five (5) hours, all in
11 violation of California labor laws, regulations, and Industrial Welfare Commission Wage
12 Orders. Additionally, Defendant failed to inform Plaintiff and the Aggrieved Employees of
13 their right to take meal periods by way of a lawful policy. More specifically, Plaintiff and the
14 Aggrieved Employees were required to take their meal periods in specific designated areas as a
15 condition of employment. This required Plaintiff and the Aggrieved Employees to walk from
16 their assigned location to the specific designated areas for their meal period. Further, Plaintiff
17 and the Aggrieved Employees were required to be back at their assigned location within thirty
18 (30) minutes of the start of their meal period. In addition, Plaintiff and the Aggrieved
19 Employees were only provided five (5) minutes of travel time for their meal period. However,
20 five (5) minutes of travel time was not sufficient to walk to and from their assigned location to
21 the specific designated areas for their meal periods. This resulted in Plaintiff and the Aggrieved
22 Employees receiving short meal periods. Further, Plaintiff and the Aggrieved Employees were
23 not relieved of all duty during this travel time, as they were not allowed to use their personal
24 cellphones. Plaintiff and the Aggrieved Employees were instructed that personal cellphones
25 could only be used in specific designated areas. Therefore, Plaintiff and the Aggrieved
26 Employees did not receive a full thirty (30) minute uninterrupted meal period pursuant to the
27 Labor Code and Wage Orders. When employees received short meal periods or were required
28 to work through meal periods, Defendant failed to pay such employees one hour of pay at their

1 regular rate of compensation.

2 25. Plaintiff and the Aggrieved Employees have been required to work four-hour
3 increments (or major fractions thereof) without being provided with a ten (10) minute rest
4 period. Additionally, Defendant failed to inform Plaintiff and the Aggrieved Employees of their
5 right to take rest periods by way of a lawful policy. More specifically, Plaintiff and the
6 Aggrieved Employees were required to take their rest periods in specific designated areas as a
7 condition of employment. This required Plaintiff and the Aggrieved Employees to walk from
8 their assigned location to the specific designated areas for their rest period. In addition, Plaintiff
9 and the Aggrieved Employees were required to be back at their assigned location within fifteen
10 (15) minutes of the start of their rest period. As such, Plaintiff and the Aggrieved Employees
11 received a ten (10) minute rest period and five (5) minutes of travel time. However, five (5)
12 minutes of travel time was not sufficient to walk to and from their assigned location to the
13 specific designated areas for their rest periods. This resulted in Plaintiff and the Aggrieved
14 Employees receiving short rest periods. As a result, Plaintiff and the Aggrieved Employees did
15 not receive a full ten (10) minute rest period as required by the Labor Code and Wage Orders.
16 Further, Plaintiff and the Aggrieved Employees were not compensated with one (1) hour of
17 wages at their regular rate of compensation for each short or missed rest period as required by
18 Labor Code § 226.7.

19 26. Defendant has failed to provide accurate itemized wage statements in compliance
20 with Labor Code § 226(a) by failing to maintain time records showing when the employee
21 begins and ends each work period, meal periods, total daily hours worked by itemizing in wage
22 statements all deductions from payment of wages, accurately reporting total hours and
23 applicable rates of pay for Plaintiff and the Aggrieved Employees.

24 27. Defendant willfully failed to pay wages and compensation, when Plaintiff and
25 Aggrieved Employees quit or were discharged. Defendant failed to pay the wages described
26 above at the time of termination or resignation. This failure was willful, without legal
27 justification, and interfered with Plaintiff's and the Aggrieved Employees' rights.

28 28. As a result of the acts alleged herein, Defendant violated Labor Code § 2699, *et*

1 *seq.*

2 V

3 **FIRST CAUSE OF ACTION**

4 **PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.**

5 29. Plaintiff incorporates each and every allegation set forth in all of the foregoing
6 paragraphs as if fully set forth herein.

7 30. Labor Code § 510(a) states that eight hours of labor constitutes a day's work and
8 any work in excess of eight hours in one workday and any work in excess of 40 hours in any
9 one workweek must be compensated at the rate of no less than one and one-half times the
10 regular rate of pay for an employee. Labor Code §§ 1194 and 1199 require an employer to pay
11 its employees the legal minimum wage and the legal overtime compensation applicable.
12 California law also requires that any compensation, including a bonus, must be included in the
13 regular rate of pay.

14 31. On a regular and consistent basis, Plaintiff and the Aggrieved Employees were
15 not paid for all hours worked at the proper rate of compensation. Defendant requires Plaintiff
16 and the Aggrieved Employees to work "off the clock" without compensation. Defendant
17 followed a uniform policy and practice of "auto-deducting" thirty (30) minutes of time from
18 Plaintiff and the Aggrieved Employees each day that they work for a meal period. However,
19 Defendant failed to record the actual clock in and actual clock out time for the meal period.
20 Therefore, this "auto-deduct" policy and practice resulted in Defendant failing to pay Plaintiff
21 and the Aggrieved Employees all wages at the appropriate rate for all hours worked because it
22 automatically deducts thirty (30) minutes of time from the employee's total hours worked for
23 the day regardless of whether a lawful meal period was actually provided under California law.
24 This resulted in underpayment of minimum wages and/or overtime. As a result of Defendant's
25 unlawful policies, Plaintiff and the Aggrieved Employees were paid at a regular rate less than
26 the rate required under California law.

27 32. Labor Code § 1199 requires employers to comply with any provision of this
28 chapter or any order or ruling of the commission. Further, Wage Order 4-2001 Section 7(A)(3)

1 requires an employer to keep records of when the employee begins and ends each work period
2 and meal periods. Defendant failed to keep accurate records of when an employee begins and
3 ends each work period and accurate meal period times. As such, Defendant has violated this
4 statute and the Wage Order by failing to keep accurate records.

5 33. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of
6 compensation for each meal period the employer fails to provide. Employees are entitled to a
7 first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided
8 within the first five (5) hours of the shift. Defendant failed to maintain a policy informing
9 Plaintiff and the Aggrieved Employees of these rights.

10 34. Defendant failed to provide Plaintiff and the Aggrieved Employees with proper
11 meal periods of not less than thirty (30) minutes as required by the Labor Code during the
12 relevant time period. More specifically, Plaintiff and the Aggrieved Employees were required
13 to take their meal periods in specific designated areas as a condition of employment. This
14 required Plaintiff and the Aggrieved Employees to walk from their assigned location to the
15 specific designated areas for their meal period. Further, Plaintiff and the Aggrieved Employees
16 were required to be back at their assigned location within thirty (30) minutes of the start of their
17 meal period. In addition, Plaintiff and the Aggrieved Employees were only provided five (5)
18 minutes of travel time for their meal period. However, five (5) minutes of travel time was not
19 sufficient to walk to and from their assigned location to the specific designated areas for their
20 meal periods. This resulted in Plaintiff and the Aggrieved Employees receiving short meal
21 periods. Further, Plaintiff and the Aggrieved Employees were not relieved of all duty during
22 this travel time, as they were not allowed to use their personal cellphones. Plaintiff and the
23 Aggrieved Employees were instructed that personal cellphones could only be used in specific
24 designated areas. Therefore, Plaintiff and the Aggrieved Employees did not receive a full thirty
25 (30) minute uninterrupted meal period pursuant to the Labor Code and Wage Orders.

26 35. Labor Code § 226.7 require an employer to pay an additional hour (1) of
27 compensation for each rest period the employer fails to provide. Employees are entitled to a
28 paid ten (10) minute rest period for every four (4) hours worked (or major fraction thereof).

1 Defendant failed to maintain a policy informing Plaintiff and the Aggrieved Employees of this
2 right. More specifically, Plaintiff and the Aggrieved Employees were required to take their rest
3 periods in specific designated areas as a condition of employment. This required Plaintiff and
4 the Aggrieved Employees to walk from their assigned location to the specific designated areas
5 for their rest period. In addition, Plaintiff and the Aggrieved Employees were required to be
6 back at their assigned location within fifteen (15) minutes of the start of their rest period. As
7 such, Plaintiff and the Aggrieved Employees received a ten (10) minute rest period and five (5)
8 minutes of travel time. However, five (5) minutes of travel time was not sufficient to walk to
9 and from their assigned location to the specific designated areas for their rest periods. This
10 resulted in Plaintiff and the Aggrieved Employees receiving short rest periods. As a result,
11 Plaintiff and the Aggrieved Employees did not receive a full ten (10) minute rest period as
12 required by the Labor Code and Wage Orders.

13 36. California Labor Code § 226(a) requires employers to itemize in wage statements
14 all deductions from payment of wages, the appropriate rates of pay, and to accurately report
15 total hours worked by Plaintiff and the Aggrieved Employees.

16 37. Labor Code § 226(a)(2) requires that the itemized wage statement properly state
17 the total hours worked by the employee. Plaintiff and the Aggrieved Employees are issued
18 wage statements that do not state the total hours worked during the pay period.

19 38. Labor Code § 226(a)(9) requires that every employer shall semimonthly or at the
20 time of each payment of wages, furnish each of his or her employees, an accurate itemized
21 statement in writing showing all applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate by the employee. Plaintiff and the
23 Aggrieved Employees are issued wage statements that do not include all applicable hourly rates
24 in effect during the pay period and the corresponding number of hours worked at each hourly
25 rate by the employee.

26 39. Defendant's failure to pay wages, as alleged above was willful in that Defendant
27 knew wages to be due but failed to pay them, thus entitling Plaintiff and the Aggrieved
28 Employees to penalties under Labor Code § 203, which provides that an employee's wages shall

1 continue as a penalty until paid for a period of up to thirty (30) days from the time they were
2 due. Defendant has failed to pay Plaintiff and others a sum certain at the time of termination or
3 within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty
4 (30) days thereafter in violation of Labor Code § 203.

5 40. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
6 § 2699, *et seq.* because of Defendant's violation of Labor Code §§ 203, 226(a), 226.7, 510, 512,
7 1194, 1197, and 1199, which call for civil penalties.

8 41. For each such violation, Plaintiff and all other Aggrieved Employees are entitled
9 to penalties in an amount to be shown at the time of trial subject to the following formula:

- 10 a. \$100 for the initial violation per employee per pay period; and
11 b. \$200 for each subsequent violation per employee per pay period.

12 42. These penalties will be allocated 75% to the Labor Workforce Development
13 Agency and 25% to the affected employees.

14 43. On July 18, 2023, in compliance with Labor Code § 2699.3(a)(1), Plaintiff gave
15 written notice by online filing to the LWDA, setting forth the facts and theories of the violations
16 alleged against Defendant ("Notice Letter", see Exhibit "1") and paid the filing fee. Plaintiff
17 also mailed notice to Defendant by certified mail, return receipt requested, to the address listed
18 on the California Secretary of State's website as the entity address for LA ARENA COMPANY
19 LLC, which is 1111 S Figueroa Street, Suite 3100, Los Angeles, CA 90015. (See Exhibit "2").

20 44. Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff
21 from the LWDA evidencing its intention to investigate within sixty-five (65) calendar days of
22 July 18, 2023. Therefore, Plaintiff is entitled to commence a civil action as though the LWDA
23 has chosen not to investigate. Plaintiff will also provide the LWDA with a filed-stamped copy
24 of the Representative Action Complaint immediately.

25 **RELIEF REQUESTED**

26 **WHEREFORE**, Plaintiff prays for the following relief:

- 27 1. For penalties and other relief pursuant to Labor Code § 2699, *et seq.*;
28 2. An award of prejudgment and post judgment interest;

- 1 3. An award providing for payment of costs of suit;
2 4. An award of attorney's fees; and
3 5. Such other and further relief as this Court may deem proper and just.

4 **DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands a trial of his claims by jury to the extent authorized

6
7 DATED: February 27, 2024

KINGSLEY & KINGSLEY, APC

8 By: 
9 DARREN M. COHEN
10 Attorneys for Plaintiff and the Aggrieved Employees

EXHIBIT 1

Kimberly Madrid

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Tuesday, July 18, 2023 4:27 PM
To: Kimberly Madrid
Subject: Thank you for submission of your PAGA Case.

External Email!

7/18/2023

LWDA Case No. LWDA-CM-969279-23
Law Firm : Kingsley & Kingsley, APC
Plaintiff Name : David Hoptman
Employer: LA Arena Company LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C01%7Ckimberly%40kingsleykingsley.com%7Cc23c876cc8d24c0c4c6308db87e68615%7C121a7875dbeb4c0fb25c5baf6c6ac7a5%7C1%7C0%7C638253196435732726%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=PwnltQ%2BVvijhonSmnH6kxXSptxiQBheSL0mTkLcDg%2FI%3D&reserved=0

EXHIBIT 2

KINGSLEY & KINGSLEY

| L A W Y E R S |

July 18, 2023

PAGAfilings@dir.ca.gov
<https://dir.tfaforms.net/308>

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

LA ARENA COMPANY LLC
1111 S Figueroa Street, Suite 3100
Los Angeles, CA 90015
Certified Mailing: # 7022 3330 0002 1335 6789

Re: David M. Hoptman v. LA Arena Company LLC
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents David M. Hoptman (“Plaintiff”) for the violations of California Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, and 1199. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et seq.* We herein set forth the facts and theories of California Labor Code violations, which we allege LA Arena Company LLC (“Defendant”) engaged in with respect to our client and all of their California employees.

Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: All persons who are employed or have been employed as an hourly employee by LA Arena Company LLC, in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’ (“aggrieved employees”).

Any limitations period referenced in this letter is extended pursuant to Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court, adopted

effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”]. Any reference to the relevant time period or statute of limitations referenced in this letter is extended into the past by the number of days in which this tolling was in effect.

Specifically, Defendant has violated Labor Code §§ 510, 1194 and 1199. These statutes require an employer to compensate its employees at the minimum wage rate for all hours worked and at a rate of no less than one and one-half times the regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Defendant has had a consistent policy of failing to pay wages and/or overtime to Plaintiff and the aggrieved employees for all hours worked. On a regular and consistent basis, Defendant requires Plaintiff and the aggrieved employees to work “off the clock” without compensation. Defendant followed a uniform policy and practice of “auto-deducting” thirty (30) minutes of time from Plaintiff and the aggrieved employees each day that they work for a meal period. However, Defendant failed to record the actual clock in and actual clock out time for the meal period. Therefore, this “auto-deduct” policy and practice resulted in Defendant failing to pay Plaintiff and the aggrieved employees all wages at the appropriate rate for all hours worked because it automatically deducts thirty (30) minutes of time from the employee’s total hours worked for the day regardless of whether a lawful meal period was actually provided under California law. This resulted in underpayment of minimum wages and/or overtime. As such, Plaintiff and the aggrieved employees were not paid for all hours worked at the proper rate.

Further, IWC Wage Order 4, ¶ 7 imposes on employers an obligation to record and maintain accurate records of time worked and meal periods. Labor Code § 1199 prohibits an employer from causing any employee to work under conditions of labor prohibited by an order of the IWC or from violating, refusing, or neglecting to comply with any order of the commission’s orders regarding wages, hours, and working conditions. Defendant does not maintain accurate records of time worked and meal periods for Plaintiff and the aggrieved employees. As such, Defendant has violated this statute and the Wage Order by failing to keep accurate records.

Also, Defendant has violated Labor Code § 512. Labor Code § 512 states that an employer may not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that a thirty-minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner. Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods and failed to provide compliant meal periods. More specifically, Plaintiff and the aggrieved employees were required to take their meal periods in specific designated areas as a condition of employment. This required Plaintiff and the aggrieved employees to walk from their assigned location to the specific designated areas for their meal period.

Further, Plaintiff and the aggrieved employees were required to be back at their assigned location within thirty (30) minutes of the start of their meal period. In addition, Plaintiff and the aggrieved employees were only provided five (5) minutes of travel time for their meal period. However, five (5) minutes of travel time was not sufficient to walk to and from their assigned location to the specific designated areas for their meal periods. This resulted in Plaintiff and the aggrieved employees receiving short meal periods. Further, Plaintiff and the aggrieved employees were not relieved of all duty during this travel time, as they were not allowed to use their personal cellphones. Plaintiff and the aggrieved employees were instructed that personal cellphones could only be used in specific designated areas. Therefore, Plaintiff and the aggrieved employees did not receive a full thirty (30) minute uninterrupted meal period pursuant to the Labor Code and Wage Orders. When employees received short meal periods or were required to work through meal periods, Defendant failed to pay such employees one hour of pay at their regular rate of compensation.

Further, pursuant to Labor Code § 226.7 and Wage Order 4-2001, Defendant failed to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. Defendant failed to provide Plaintiff and the aggrieved employees with these rest periods and failed to inform them of their right to rest periods. Plaintiff and the aggrieved employees were required to take their rest periods in specific designated areas as a condition of employment. This required Plaintiff and the aggrieved employees to walk from their assigned location to the specific designated areas for their rest period. In addition, Plaintiff and the aggrieved employees were required to be back at their assigned location within fifteen (15) minutes of the start of their rest period. As such, Plaintiff and the aggrieved employees received a ten (10) minute rest period and five (5) minutes of travel time. However, five (5) minutes of travel time was not sufficient to walk to and from their assigned location to the specific designated areas for their rest periods. This resulted in Plaintiff and the aggrieved employees receiving short rest periods. As a result, Plaintiff and the aggrieved employees did not receive a full ten (10) minute rest period as required by the Labor Code and Wage Orders. Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages at their regular rate of compensation for each short or missed rest period as required by Labor Code § 226.7.

Defendant engaged in a practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226(a), which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing a number of specific items. Labor Code § 226(a)(2) requires that the itemized wage statement properly state the total hours worked by the employee. Plaintiff and the aggrieved employees are issued wage statements that do not state the total hours worked during the pay period. Labor Code § 226(a)(9) requires that the itemized wage statement properly state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Plaintiff and the aggrieved employees are issued wage statements that do not include the applicable regular rate, overtime rate, and double time rates. In addition, Plaintiff and the aggrieved employees are issued wage statements that do not include the correct number of hours worked at each applicable hourly rate and do not include meal/rest period premiums. As such, Defendant has violated Labor Code § 226(a) with respect to Plaintiff and the aggrieved employees.

LABOR & WORKFORCE DEVELOPMENT AGENCY

LA ARENA COMPANY LLC

California Labor Code § 2699 Penalties

July 18, 2023

Page 4 of 4

Lastly, Labor Code § 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.” Here, Plaintiff and all aggrieved employees were not timely paid all wages due upon their separation from Defendant’s employ as required. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code § 203.

Defendant’s failure to provide wages and/or overtime, failure to maintain accurate records, failure to provide meal and rest periods, failure to provide compliant itemized wage statements, and failure to pay all wages upon termination/resignation were all done on a regular and consistent basis.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, and 1199, with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 
DARREN M. COHEN

DMC/mt

LWDA Filed Electronic Submission via <https://dir.tfaforms.net/308>

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

LA ARENA COMPANY LLC # 7022 3330 0002 1335 6789

(PROOF OF SERVICE)
[CCP 1013(a)(3)]
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On February 27, 2024, I served all interested parties in this action the following documents described as **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Robin Samuel
BAKER & MCKENZIE LLP
10250 Constellation Blvd., Suite 1850
Los Angeles, California 90067
robin.samuel@bakermckenzie.com

☐ **(BY MAIL)** I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **BY ELECTRONIC MAIL THROUGH CASE ANYWHERE:** On interested parties set forth on the attached service list.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 27, 2024, at Encino, California.



Michelle A. Tanzer